

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JORNAY R. RODRIGUEZ,
Petitioner,

v.

JOHN MARSHALL, Warden,
Respondent.

Petitioner, a state prisoner, has filed a pro se petition for a writ of habeas corpus. He has paid the filing fee.

Federal statute allows "the Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2241(a). A federal petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court is properly filed in either the district of confinement or the district of conviction. Id. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. See id. Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. See Dannenberg v. Ingle, 831 F. Supp. 767, 767 (N.D. Cal. 1993); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968).

1 Here, Petitioner challenges a conviction and sentence incurred
2 in Los Angeles County Superior Court, which is in the venue of the
3 Western Division of the Central District of California. See 28
4 U.S.C. § 84. Accordingly, that is the proper venue for this
5 action.

6 Pursuant to 28 U.S.C. § 1406(a) and Habeas L.R. 2254-3(b), and
7 in the interest of justice, the Clerk of the Court is ordered to
8 TRANSFER this action forthwith to the United States District Court
9 for the Western Division of the Central District of California.

10 IT IS SO ORDERED.

11 Dated: 10/14/08

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14 CLAUDIA WILKEN
15 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JORNAY R RODRIGUEZ,

Plaintiff,

v.

JOHN MARSHALL et al,

Defendant.

Case Number: CV08-04036 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 14, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jornay Rechurnd Rodriguez P-16162
California Mens Colony
P.O. Box 8101
San Luis Obispo, CA 93409-8101

Dated: October 14, 2008

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk